

# MISSOURI SENTENCING ADVISORY COMMISSION

## Progress Report on the Recommended Sentencing Presented to the Commission Meeting April 23, 2009 Produced by the Department of Corrections Research and Evaluation Unit

The report provides a progress report on the Department of Corrections (DOC) Sentencing Assessment Report (SAR) and a statistical analysis of the recommended sentences. The report includes a compliance analysis based upon the sentencing disposition of 14,110 completed SARs.

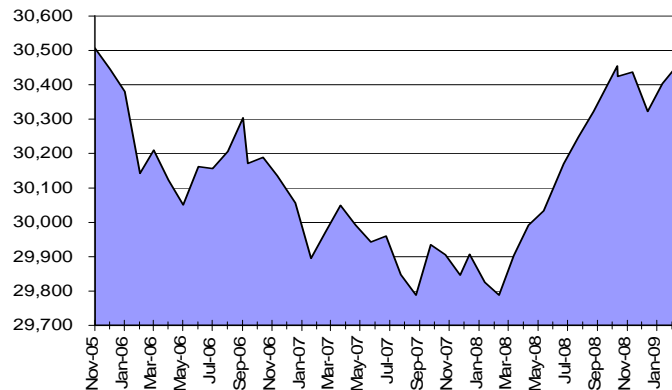
### 1. Impact on the Prison Population

The prison population in the first nine months of FY 2009 has increased at a rate of 1.53 per day. In January 2009, the population declined by 116 the first significant decline since March 2008. In FY2008 the population was up slightly (0.25 per day) with FY2007 (-0.60 per day) down slightly and FY2006 (0.04 per day) up slightly.

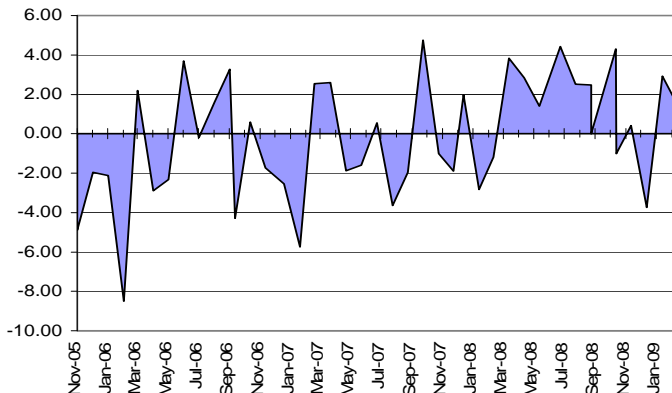
**Institutional Population Growth in July 2005 to March 2009**  
SAR introduced November 2005

|        | Population | Change | Rate Per Day | Cum. From Oct. 2005 |
|--------|------------|--------|--------------|---------------------|
| Jul-05 | 30,359     |        |              |                     |
| Aug-05 | 30,416     | 57     | 1.84         |                     |
| Sep-05 | 30,531     | 115    | 3.83         |                     |
| Oct-05 | 30,654     | 123    | 3.97         |                     |
| Nov-05 | 30,507     | -147   | -4.90        | -4.90               |
| Dec-05 | 30,446     | -61    | -1.97        | -3.41               |
| Jan-06 | 30,380     | -66    | -2.13        | -2.98               |
| Feb-06 | 30,142     | -238   | -8.50        | -4.27               |
| Mar-06 | 30,210     | 68     | 2.19         | -2.94               |
| Apr-06 | 30,123     | -87    | -2.90        | -2.93               |
| May-06 | 30,051     | -72    | -2.32        | -2.84               |
| Jun-06 | 30,162     | 111    | 3.70         | -2.03               |
| Jul-06 | 30,156     | -6     | -0.19        | -1.82               |
| Aug-06 | 30,206     | 50     | 1.61         | -1.47               |
| Sep-06 | 30,304     | 98     | 3.27         | -1.05               |
| Oct-06 | 30,171     | -133   | -4.29        | -1.32               |
| Nov-06 | 30,189     | 18     | 0.60         | -1.18               |
| Dec-06 | 30,135     | -54    | -1.74        | -1.22               |
| Jan-07 | 30,056     | -79    | -2.55        | -1.31               |
| Feb-07 | 29,895     | -161   | -5.75        | -1.56               |
| Mar-07 | 29,971     | 76     | 2.53         | -1.33               |
| Apr-07 | 30,049     | 78     | 2.60         | -1.11               |
| May-07 | 29,991     | -58    | -1.87        | -1.15               |
| Jun-07 | 29,943     | -48    | -1.60        | -1.17               |
| Jul-07 | 29,960     | 17     | 0.55         | -1.09               |
| Aug-07 | 29,847     | -113   | -3.65        | -1.21               |
| Sep-07 | 29,788     | -59    | -1.97        | -1.24               |
| Oct-07 | 29,935     | 147    | 4.74         | -0.99               |
| Nov-07 | 29,905     | -30    | -1.00        | -0.99               |
| Dec-07 | 29,846     | -59    | -1.90        | -1.02               |
| Jan-08 | 29,907     | 61     | 1.97         | -0.91               |
| Feb-08 | 29,825     | -82    | -2.83        | -0.98               |
| Mar-08 | 29,788     | -37    | -1.19        | -0.98               |
| Apr-08 | 29,903     | 115    | 3.83         | -0.82               |
| May-08 | 29,991     | 88     | 2.84         | -0.70               |
| Jun-08 | 30,033     | 42     | 1.40         | -0.64               |
| Jul-08 | 30,170     | 137    | 4.42         | -0.48               |
| Aug-08 | 30,248     | 78     | 2.52         | -0.39               |
| Sep-08 | 30,322     | 74     | 2.47         | -0.31               |
| Sep-08 | 30,322     | 0      | 0.00         | -0.30               |
| Oct-08 | 30,455     | 133    | 4.29         | -0.18               |
| Nov-08 | 30,425     | -30    | -1.00        | -0.20               |
| Dec-08 | 30,438     | 13     | 0.42         | -0.18               |
| Jan-09 | 30,322     | -116   | -3.74        | -0.27               |
| Feb-09 | 30,404     | 82     | 2.93         | -0.20               |
| Mar-09 | 30,453     | 49     | 1.58         | -0.16               |

**Institutional Population**



**Monthly Rate-per-day**



As of the end of December, although total admissions in FY09 to date are down slightly from FY08, the new term admissions have increased by 5.6% mainly because of the increase in new court commitments (up 6.7%). Probation revocations are down 6.7%. The 120-day admissions are down in numbers and as a percent of new admissions (34%) compared to FY08 (38%). Releases in FY09 to date are down 8.3% from FY08, with the numbers of offenders released to probation down 6.0% (which relates to the decrease in 120-day admissions) and released to parole down 11.4%. Discharges are up 4.2%.

The increase in the population in FY09 is largely the result of the increase in new court commitments serving a term sentence. The main indicator of future population growth is new term admissions. These offenders typically serve about three years before release, while parole violators serve about 12 months and 120 day court commitments serve 4 months. The institutional population remains 201 below the October 31, 2005 population (30,654).

## 2. Statewide Implementation

The Sentencing Assessment Report (SAR) for pre-sentence investigations went statewide on November 1, 2005. As of March 31, 2009, there have been 22,138 SARs requested, 21,530 SARs completed, and 14,994 have been received by the DOC with the sentenced offender. The average time to complete the SAR is 37 days, compared to 42 days for the PSI format.

### **Pre-Sentence Investigations requested since Implementation - January 1, 2005 to March 31, 2009**

| PSI      |                      | SAR      |                      |                         |
|----------|----------------------|----------|----------------------|-------------------------|
| Requests | Completion Time Days | Requests | Completion Time Days | Completed and Sentenced |
| 4,736    | 42                   | 22,138   | 37                   | 14,566                  |

(LS57)

## 3. Who are requesting investigations?

In CY2009, annualized there is a 3.3% decrease in sentencing assessments. CY2009 SARs for Felony C and D offenses decreased by 3.2%, SARs for felony A, B and unclassified offenses decreased by 3.6%.

### **Sentencing Assessment Requests: 2006-2009 (as of March 31)**

#### **All Offenses**

|                  | PSI/SAR Requests |       |       |              | Percent change from previous year |        |        |       |
|------------------|------------------|-------|-------|--------------|-----------------------------------|--------|--------|-------|
|                  | 2006             | 2007  | 2008  | Mar. 31 2009 | 2006                              | 2007   | 2008   | 2009  |
| Circuits         |                  |       |       |              |                                   |        |        |       |
| Jackson County   | 354              | 349   | 433   | 109          | 25%                               | -1.4%  | 24.1%  | 2.1%  |
| St. Louis County | 229              | 224   | 217   | 51           | 9%                                | -2.2%  | -3.1%  | -4.7% |
| St. Louis City   | 372              | 365   | 487   | 114          | 20%                               | -1.9%  | 33.4%  | -5.1% |
| Metro            | 955              | 938   | 1,137 | 274          | 19%                               | -1.8%  | 21.2%  | -2.3% |
| First Class      | 3,705            | 3,491 | 3,022 | 744          | 9%                                | -5.8%  | -13.4% | -0.2% |
| Rural            | 2,312            | 1,854 | 1,641 | 365          | 7%                                | -19.8% | -11.5% | -9.8% |
| Total            | 6972             | 6,283 | 5,800 | 1,383        | 10%                               | -9.9%  | -7.7%  | -3.3% |

(LS70A)

While overall there is a decline in requests, St. Louis City and First Class counties are requesting more AB felony SARS.

**Sentencing Assessment Requests: 2006-2009 (as of March 31)**

**Felony A, B, and Unclassified Offenses**

| Circuits         | PSI/SAR Requests |       |       |              | Percent change from previous year |        |       |        |
|------------------|------------------|-------|-------|--------------|-----------------------------------|--------|-------|--------|
|                  | 2006             | 2007  | 2008  | Mar. 31 2009 | 2006                              | 2007   | 2008  | 2009   |
| Jackson County   | 179              | 171   | 231   | 49           | 14%                               | -4.5%  | 35.1% | -14.0% |
| St. Louis County | 105              | 115   | 106   | 24           | 13%                               | 9.5%   | -7.8% | -8.2%  |
| St. Louis City   | 139              | 139   | 196   | 50           | 5%                                | 0.0%   | 41.0% | 3.5%   |
| Metro            | 423              | 425   | 533   | 123          | 10%                               | 0.5%   | 25.4% | -6.4%  |
| First Class      | 686              | 716   | 668   | 167          | 17%                               | 4.4%   | -6.7% | 1.4%   |
| Rural            | 490              | 441   | 419   | 95           | -5%                               | -10.0% | -5.0% | -8.0%  |
| Total            | 1599             | 1,582 | 1,620 | 385          | 8%                                | -1.1%  | 2.4%  | -3.6%  |

**Sentencing Assessment Requests: 2006-2009 (as of March 31)**

**Felony C and D Offenses**

| Circuits         | PSI/SAR Requests |       |       |              | Percent change from previous year |        |        |        |
|------------------|------------------|-------|-------|--------------|-----------------------------------|--------|--------|--------|
|                  | 2006             | 2007  | 2008  | Mar. 31 2009 | 2006                              | 2007   | 2008   | 2009   |
| Jackson County   | 175              | 178   | 202   | 60           | 38%                               | 1.7%   | 13.5%  | 20.5%  |
| St. Louis County | 124              | 109   | 111   | 27           | 5%                                | -12.1% | 1.8%   | -1.4%  |
| St. Louis City   | 233              | 226   | 291   | 64           | 32%                               | -3.0%  | 28.8%  | -10.8% |
| Metro            | 532              | 513   | 604   | 151          | 26%                               | -3.6%  | 17.7%  | 1.4%   |
| First Class      | 3,019            | 2,775 | 2,354 | 577          | 7%                                | -8.1%  | -15.2% | -0.6%  |
| Rural            | 1,822            | 1,413 | 1,222 | 270          | 11%                               | -22.4% | -13.5% | -10.4% |
| Total            | 5373             | 4,701 | 4,180 | 998          | 10%                               | -12.5% | -11.1% | -3.2%  |

(LS70A)

Violent offenses continue to see an increase in SAR requests.

**Sentencing Assessment Requests: 2006-2009 (March 31)**

| Circuits                   | PSI/SAR Requests |       |       |              | Percent change from previous year |        |        |        |
|----------------------------|------------------|-------|-------|--------------|-----------------------------------|--------|--------|--------|
|                            | 2006             | 2007  | 2008  | Mar. 31 2009 | 2006                              | 2007   | 2008   | 2009   |
| <i>Sex and Child Abuse</i> |                  |       |       |              |                                   |        |        |        |
| A, B, and Unclassified     | 207              | 224   | 252   | 57           | 0%                                | 8.2%   | 12.5%  | -8.3%  |
| C and D                    | 289              | 266   | 264   | 54           | -1%                               | -8.0%  | -0.8%  | -17.0% |
| Total                      | 496              | 490   | 516   | 111          | -1%                               | -1.2%  | 5.3%   | -12.8% |
| <i>Violent</i>             |                  |       |       |              |                                   |        |        |        |
| A, B, and Unclassified     | 454              | 444   | 521   | 144          | 14%                               | -2.2%  | 17.3%  | 12.1%  |
| C and D                    | 463              | 455   | 423   | 111          | 8%                                | -1.7%  | -7.0%  | 6.4%   |
| Total                      | 917              | 899   | 944   | 255          | 11%                               | -2.0%  | 5.0%   | 9.6%   |
| <i>Non-Violent</i>         |                  |       |       |              |                                   |        |        |        |
| A, B, and Unclassified     | 129              | 138   | 175   | 25           | 40%                               | 7.0%   | 26.8%  | -42.1% |
| C and D                    | 2304             | 1,974 | 1,769 | 435          | 7%                                | -14.3% | -10.4% | -0.3%  |
| Total                      | 2433             | 2,112 | 1,944 | 460          | 8%                                | -13.2% | -8.0%  | -4.0%  |
| <i>Drug</i>                |                  |       |       |              |                                   |        |        |        |
| A, B, and Unclassified     | 784              | 716   | 630   | 152          | 0%                                | -8.7%  | -12.0% | -2.2%  |
| C and D                    | 1688             | 1,366 | 1,244 | 278          | 10%                               | -19.1% | -8.9%  | -9.4%  |
| Total                      | 2472             | 2,082 | 1,874 | 430          | 7%                                | -15.8% | -10.0% | -6.9%  |
| <i>DWI</i>                 |                  |       |       |              |                                   |        |        |        |
| A, B, and Unclassified     | 25               | 60    | 42    | 7            | 0%                                | 140.0% | -30.0% | -32.4% |
| C and D                    | 629              | 640   | 480   | 120          | 34%                               | 1.7%   | -25.0% | 1.4%   |
| Total                      | 654              | 700   | 522   | 127          | 39%                               | 7.0%   | -25.4% | -1.3%  |
| <i>All Offense Groups</i>  |                  |       |       |              |                                   |        |        |        |
| A, B, and Unclassified     | 1599             | 1,582 | 1,620 | 385          | 8%                                | -1.1%  | 2.4%   | -3.6%  |
| C and D                    | 5373             | 4,701 | 4,180 | 998          | 10%                               | -12.5% | -11.1% | -3.2%  |
| Total                      | 6972             | 6,283 | 5,800 | 1,383        | 10%                               | -9.9%  | -7.7%  | -3.3%  |

(LS70B)

Some counties typically request a pre-sentence investigation while other counties rarely request a pre-sentence investigation. The following table compares the number of court requested investigations to the number of new sentences received by the DOC in 2008.

Counties that usually request an investigation (70% of the time or more) include Clark and Lewis. The metro areas, Jackson County (16.7%) and the City of St. Louis (15.0%) are slightly over the statewide median of 14.7%. St. Louis County is well under the median with 7.1% requests.

Utilization of Sentencing Assessments For New Sentencing

| County         | CY08<br>New<br>Felony<br>Sentences | CY08<br>P & P<br>Assessment<br>Request | Percent of<br>New<br>Felony<br>Sentences | County         | CY08<br>New<br>Felony<br>Sentences | CY08<br>P & P<br>Assessment<br>Request | Percent of<br>New<br>Felony<br>Sentences |
|----------------|------------------------------------|--|--|----------------|------------------------------------|--|--|
| Adair          | 122                                | 36                                     | 29.5%                                    | Livingston     | 139                                | 83                                     | 59.7%                                    |
| Andrew         | 34                                 | 16                                     | 47.1%                                    | Macon          | 65                                 | 11                                     | 16.9%                                    |
| Atchison       | 19                                 | 12                                     | 63.2%                                    | Madison        | 66                                 | 6                                      | 9.1%                                     |
| Audrain        | 214                                | 19                                     | 8.9%                                     | Maries         | 31                                 | 2                                      | 6.5%                                     |
| Barry          | 170                                | 22                                     | 12.9%                                    | Marion         | 140                                | 16                                     | 11.4%                                    |
| Barton         | 78                                 | 12                                     | 15.4%                                    | Mcdonald       | 139                                | 7                                      | 5.0%                                     |
| Bates          | 93                                 | 13                                     | 14.0%                                    | Mercer         | 18                                 | 9                                      | 50.0%                                    |
| Benton         | 71                                 | 10                                     | 14.1%                                    | Miller         | 184                                | 5                                      | 2.7%                                     |
| Bollinger      | 20                                 | 10                                     | 50.0%                                    | Mississippi    | 135                                | 19                                     | 14.1%                                    |
| Boone          | 696                                | 377                                    | 54.2%                                    | Moniteau       | 53                                 | 9                                      | 17.0%                                    |
| Buchanan       | 583                                | 366                                    | 62.8%                                    | Monroe         | 38                                 | 3                                      | 7.9%                                     |
| Butler         | 216                                | 27                                     | 12.5%                                    | Montgomery     | 130                                | 11                                     | 8.5%                                     |
| Caldwell       | 51                                 | 21                                     | 41.2%                                    | Morgan         | 100                                | 10                                     | 10.0%                                    |
| Callaway       | 161                                | 96                                     | 59.6%                                    | New Madrid     | 225                                | 17                                     | 7.6%                                     |
| Camden         | 255                                | 15                                     | 5.9%                                     | Newton         | 192                                | 47                                     | 24.5%                                    |
| Cape Girardeau | 338                                | 127                                    | 37.6%                                    | Nodaway        | 70                                 | 45                                     | 64.3%                                    |
| Carroll        | 40                                 | 2                                      | 5.0%                                     | Oregon         | 30                                 | 5                                      | 16.7%                                    |
| Carter         | 26                                 | 1                                      | 3.8%                                     | Osage          | 19                                 | 7                                      | 36.8%                                    |
| Cass           | 273                                | 34                                     | 12.5%                                    | Ozark          | 34                                 | 6                                      | 17.6%                                    |
| Cedar          | 72                                 | 5                                      | 6.9%                                     | Pemiscot       | 233                                | 49                                     | 21.0%                                    |
| Chariton       | 34                                 | 6                                      | 17.6%                                    | Perry          | 112                                | 55                                     | 49.1%                                    |
| Christian      | 338                                | 88                                     | 26.0%                                    | Pettis         | 200                                | 35                                     | 17.5%                                    |
| Clark          | 30                                 | 26                                     | 86.7%                                    | Phelps         | 264                                | 32                                     | 12.1%                                    |
| Clay           | 457                                | 214                                    | 46.8%                                    | Pike           | 126                                | 9                                      | 7.1%                                     |
| Clinton        | 66                                 | 21                                     | 31.8%                                    | Platte         | 204                                | 41                                     | 20.1%                                    |
| Cole           | 417                                | 164                                    | 39.3%                                    | Polk           | 146                                | 12                                     | 8.2%                                     |
| Cooper         | 118                                | 3                                      | 2.5%                                     | Pulaski        | 154                                | 14                                     | 9.1%                                     |
| Crawford       | 200                                | 42                                     | 21.0%                                    | Putnam         | 25                                 | 16                                     | 64.0%                                    |
| Dade           | 31                                 | 3                                      | 9.7%                                     | Ralls          | 21                                 | 2                                      | 9.5%                                     |
| Dallas         | 101                                | 10                                     | 9.9%                                     | Randolph       | 282                                | 62                                     | 22.0%                                    |
| Davies         | 77                                 | 40                                     | 51.9%                                    | Ray            | 145                                | 8                                      | 5.5%                                     |
| Dekalb         | 74                                 | 18                                     | 24.3%                                    | Reynolds       | 18                                 | 1                                      | 5.6%                                     |
| Dent           | 74                                 | 12                                     | 16.2%                                    | Ripley         | 67                                 | 8                                      | 11.9%                                    |
| Douglas        | 39                                 | -                                      | 0.0%                                     | Saline         | 122                                | 24                                     | 19.7%                                    |
| Dunklin        | 415                                | 41                                     | 9.9%                                     | Schuyler       | 11                                 | 5                                      | 45.5%                                    |
| Franklin       | 451                                | 146                                    | 32.4%                                    | Scotland       | 21                                 | 13                                     | 61.9%                                    |
| Gasconade      | 59                                 | 20                                     | 33.9%                                    | Scott          | 310                                | 28                                     | 9.0%                                     |
| Gentry         | 30                                 | 14                                     | 46.7%                                    | Shannon        | 52                                 | 3                                      | 5.8%                                     |
| Greene         | 1,280                              | 406                                    | 31.7%                                    | Shelby         | 25                                 | 2                                      | 8.0%                                     |
| Grundy         | 49                                 | 15                                     | 30.6%                                    | St. Charles    | 1,160                              | 222                                    | 19.1%                                    |
| Harrison       | 43                                 | 20                                     | 46.5%                                    | St. Clair      | 35                                 | 3                                      | 8.6%                                     |
| Henry          | 137                                | 6                                      | 4.4%                                     | St. Genevieve  | 91                                 | 2                                      | 2.2%                                     |
| Hickory        | 32                                 | 2                                      | 6.3%                                     | St. Francois   | 345                                | 40                                     | 11.6%                                    |
| Holt           | 34                                 | 21                                     | 61.8%                                    | St. Louis City | 3,255                              | 488                                    | 15.0%                                    |
| Howard         | 46                                 | 13                                     | 28.3%                                    | St. Louis Cnty | 3,036                              | 217                                    | 7.1%                                     |
| Howell         | 133                                | 9                                      | 6.8%                                     | Stoddard       | 215                                | 46                                     | 21.4%                                    |
| Iron           | 57                                 | 9                                      | 15.8%                                    | Stone          | 174                                | 15                                     | 8.6%                                     |
| Jackson        | 2,600                              | 433                                    | 16.7%                                    | Sullivan       | 44                                 | 3                                      | 6.8%                                     |
| Jasper         | 381                                | 229                                    | 60.1%                                    | Taney          | 334                                | 112                                    | 33.5%                                    |
| Jefferson      | 693                                | 401                                    | 57.9%                                    | Texas          | 95                                 | 5                                      | 5.3%                                     |
| Johnson        | 179                                | 34                                     | 19.0%                                    | Vernon         | 75                                 | 8                                      | 10.7%                                    |
| Knox           | 11                                 | 1                                      | 9.1%                                     | Warren         | 236                                | 14                                     | 5.9%                                     |
| Laclede        | 175                                | 15                                     | 8.6%                                     | Washington     | 147                                | 13                                     | 8.8%                                     |
| Lafayette      | 300                                | 44                                     | 14.7%                                    | Wayne          | 69                                 | 2                                      | 2.9%                                     |
| Lawrence       | 216                                | 27                                     | 12.5%                                    | Webster        | 83                                 | 3                                      | 3.6%                                     |
| Lewis          | 65                                 | 49                                     | 75.4%                                    | Worth          | 7                                  | 2                                      | 28.6%                                    |
| Lincoln        | 283                                | 33                                     | 11.7%                                    | Wright         | 114                                | 2                                      | 1.8%                                     |
| Linn           | 46                                 | 2                                      | 4.3%                                     | Total          | 27,164                             | 5,792                                  | 21.3%                                    |

(LS62)

Looking only at counties with 100 or more new felony sentences in CY2008, the following table compares the percentage of new felony sentences with a requested assessment in CY2008 to the percentage requested in CY2007.

Jackson County had a 2.3% increase in assessments requests along with Greene County with a 2.2% increase. At the other end of the spectrum, assessments requests for Jefferson County dropped by 30.4%. The statewide percentage of sentences with an assessment in 2008 declined by 2.2% compared to 2007. One reason for changes in the number of SAR requests is often a change in the circuit court judge.

**Change in Percent of Utilization of Assessments For New Sentencing in 2008 from 2007**  
**Counties with 100 or More New Felony Sentences in 2008**  
**Sorted by Change in Percentage**

| CY08<br>New<br>Felony<br>Sentences | County         | Percentage of Sentences<br>Requesting<br>Sentencing Assessment |       | Change<br>in<br>Percentage | CY08<br>New<br>Felony<br>Sentences | County         | Percentage of Sentences<br>Requesting<br>Sentencing Assessment |       | Change<br>in<br>Percentage |
|------------------------------------|----------------|--|-------|----------------------------|------------------------------------|----------------|--|-------|----------------------------|
|                                    |                | CY07   | CY08  |                            |                                    |                | CY07   | CY08  |                            |
| 112                                | Perry          | 40.0%  | 49.1% | 9.1%                       | 137                                | Henry          | 6.1%   | 4.4%  | -1.8%                      |
| 381                                | Jasper         | 53.1%  | 60.1% | 7.0%                       | 310                                | Scott          | 11.3%  | 9.0%  | -2.3%                      |
| 200                                | Pettis         | 11.2%  | 17.5% | 6.3%                       | 100                                | Morgan         | 12.4%  | 10.0% | -2.4%                      |
| 204                                | Platte         | 14.5%  | 20.1% | 5.6%                       | 236                                | Warren         | 9.7%   | 5.9%  | -3.8%                      |
| 126                                | Pike           | 1.9%   | 7.1%  | 5.2%                       | 139                                | Mcdonald       | 8.8%   | 5.0%  | -3.8%                      |
| 122                                | Saline         | 14.6%  | 19.7% | 5.1%                       | 255                                | Camden         | 9.9%   | 5.9%  | -4.0%                      |
| 161                                | Callaway       | 54.7%  | 59.6% | 4.9%                       | 214                                | Audrain        | 13.1%  | 8.9%  | -4.3%                      |
| 130                                | Montgomery     | 4.1%   | 8.5%  | 4.3%                       | 300                                | Lafayette      | 19.0%  | 14.7% | -4.4%                      |
| 174                                | Stone          | 5.3%   | 8.6%  | 3.3%                       | 264                                | Phelps         | 16.7%  | 12.1% | -4.5%                      |
| 2,600                              | Jackson        | 14.4%  | 16.7% | 2.3%                       | 334                                | Taney          | 38.4%  | 33.5% | -4.9%                      |
| 1,280                              | Greene         | 29.6%  | 31.7% | 2.2%                       | 184                                | Miller         | 7.8%   | 2.7%  | -5.1%                      |
| 215                                | Stoddard       | 19.4%  | 21.4% | 2.0%                       | 114                                | Wright         | 6.8%   | 1.8%  | -5.1%                      |
| 200                                | Crawford       | 19.0%  | 21.0% | 2.0%                       | 175                                | Laclede        | 13.7%  | 8.6%  | -5.1%                      |
| 3,255                              | St. Louis City | 13.5%  | 15.0% | 1.5%                       | 101                                | Dallas         | 15.3%  | 9.9%  | -5.4%                      |
| 415                                | Dunklin        | 8.5%   | 9.9%  | 1.4%                       | 139                                | Livingston     | 65.2%  | 59.7% | -5.5%                      |
| 216                                | Lawrence       | 11.7%  | 12.5% | 0.8%                       | 417                                | Cole           | 45.1%  | 39.3% | -5.8%                      |
| 696                                | Boone          | 53.5%  | 54.2% | 0.7%                       | 273                                | Cass           | 18.5%  | 12.5% | -6.0%                      |
| 146                                | Polk           | 7.5%   | 8.2%  | 0.7%                       | 338                                | Cape Girardeau | 44.5%  | 37.6% | -6.9%                      |
| 192                                | Newton         | 24.0%  | 24.5% | 0.5%                       | 583                                | Buchanan       | 70.9%  | 62.8% | -8.2%                      |
| 233                                | Pemiscot       | 20.5%  | 21.0% | 0.5%                       | 140                                | Marion         | 19.7%  | 11.4% | -8.3%                      |
| 1,160                              | St. Charles    | 18.9%  | 19.1% | 0.2%                       | 135                                | Mississippi    | 23.1%  | 14.1% | -9.0%                      |
| 282                                | Randolph       | 21.8%  | 22.0% | 0.2%                       | 118                                | Cooper         | 12.0%  | 2.5%  | -9.5%                      |
| 283                                | Lincoln        | 11.6%  | 11.7% | 0.0%                       | 179                                | Johnson        | 28.9%  | 19.0% | -10.0%                     |
| 170                                | Barry          | 13.0%  | 12.9% | 0.0%                       | 345                                | St. Francois   | 22.5%  | 11.6% | -10.9%                     |
| 154                                | Pulaski        | 9.2%   | 9.1%  | -0.1%                      | 147                                | Washington     | 20.1%  | 8.8%  | -11.3%                     |
| 3,036                              | St. Louis Cnty | 7.5%   | 7.1%  | -0.4%                      | 122                                | Adair          | 43.3%  | 29.5% | -13.8%                     |
| 225                                | New Madrid     | 8.5%   | 7.6%  | -1.0%                      | 338                                | Christian      | 42.5%  | 26.0% | -16.5%                     |
| 145                                | Ray            | 6.8%   | 5.5%  | -1.3%                      | 451                                | Franklin       | 48.8%  | 32.4% | -16.5%                     |
| 133                                | Howell         | 8.2%   | 6.8%  | -1.4%                      | 457                                | Clay           | 65.9%  | 46.8% | -19.0%                     |
| 216                                | Butler         | 14.0%  | 12.5% | -1.5%                      | 693                                | Jefferson      | 88.2%  | 57.9% | -30.4%                     |
|                                    |                |  |       |                            | 27,164                             | Total          | 23.5%  | 21.3% | -2.2%                      |

(LS62)

#### 4. Investigations by type of Offender

The number of investigation request is similar across the board except for probation offenders. Offenders on probation with new sentences had a lower percent of investigation requests. This corresponds to the drop in SAR request for felony class C and D offenses. Drug Court deferred prosecution investigations are included in P&P investigations.

##### **New Sentenced in CY2008 and Court Requests for Investigations**

| Status of Offender   | Felony Sentences | P&P Investigations | Percent Requested |
|----------------------|------------------|--------------------|-------------------|
| Drug Court           | 1,165            | 372                | 31.9%             |
| New Court Commitment | 5,692            | 1,783              | 31.3%             |
| Probation            | 17,711           | 3,608              | 20.4%             |
| Parole               | 2,596            | 930                | 35.8%             |
| Total                | 27,164           | 6,693              | 24.6%             |

(LS62)

#### 5. Court Compliance with the Recommended Presumptive Sentence

The recommended sentences in the sentencing assessment reports have been updated with the actual sentences of offenders received by the DOC. Because there may be a lag of two or more months from requesting an investigation to the receipt of the offender by the DOC, the number of SARs matched with the actual sentences is lower than the number of completed SARs. At present, there are 14,672 SARs with a new sentence.

The overall picture indicates that the actual sentencing is sometimes more severe than the recommended presumptive sentence. For all offenses, there are 3.1% fewer probation/CSS sentences other than recommended and 2.4% more prison sentences than recommended.

##### **Presumptive Recommended Sentence and Actual Sentence**

| Disposition      | Recommended Presumptive Sentence |        | Actual Sentence |        | Difference % |
|------------------|----------------------------------|--------|-----------------|--------|--------------|
|                  | #                                | %      | #               | %      |              |
| Probation or CSS | 10,417                           | 71.0%  | 9,967           | 67.9%  | -3.1%        |
| Shk/Trt          | 1,821                            | 12.4%  | 1,922           | 13.1%  | 0.7%         |
| Prison           | 2,434                            | 16.6%  | 2,783           | 19.0%  | 2.4%         |
| Total            | 14,672                           | 100.0% | 14,672          | 100.0% | 0.0%         |

(LS49)

The analysis by offense group indicates that violent and sex offenses are more likely to receive a more severe sentence than the recommended presumptive sentence.

- Violent offenses: Prison sentences are 5.6% higher
- Sex offenses: Prison sentences are 8.6% higher
- For Drugs, DWI and Non-violent offenses the differences are from 3.6% to –5.0%.

All offense groups except DWI saw a reduction in the percentage of difference with the presumptive recommended sentence of prison.

**Presumptive Recommended Sentence and Actual Sentence  
By Offense Group**

|                                     | Recommended<br>Presumptive<br>Sentence | Actual<br>Sentence | Difference |
|-------------------------------------|--|--------------------|------------|
| <u><i>Violent</i></u>               |  |                    |            |
| Probation or CSS                    | 53.4%                                  | 44.6%              | -8.9%      |
| 120day Shock                        | 10.3%                                  | 13.5%              | 3.2%       |
| Prison                              | 36.3%                                  | 41.9%              | 5.6%       |
| Total                               | 100.0%                                 | 100.0%             | 0.0%       |
| <u><i>Sex &amp; Child Abuse</i></u> |  |                    |            |
| Probation or CSS                    | 49.2%                                  | 41.5%              | -7.6%      |
| 120day Shock                        | 6.2%                                   | 5.2%               | -1.0%      |
| Prison                              | 44.6%                                  | 53.2%              | 8.6%       |
| Total                               | 100.0%                                 | 100.0%             | 0.0%       |
| <u><i>Non-Violent</i></u>           |  |                    |            |
| Probation or CSS                    | 79.2%                                  | 75.4%              | -3.9%      |
| 120day Shock                        | 10.2%                                  | 10.4%              | 0.3%       |
| Prison                              | 10.6%                                  | 14.2%              | 3.6%       |
| Total                               | 100.0%                                 | 100.0%             | 0.0%       |
| <u><i>Drug</i></u>                  |  |                    |            |
| Probation or CSS                    | 76.3%                                  | 75.6%              | -0.7%      |
| 120day Shock                        | 14.1%                                  | 13.4%              | -0.7%      |
| Prison                              | 9.6%                                   | 11.0%              | 1.4%       |
| Total                               | 100.0%                                 | 100.0%             | 0.0%       |
| <u><i>DWI</i></u>                   |  |                    |            |
| Probation or CSS                    | 59.3%                                  | 59.5%              | 0.1%       |
| 120day Shock                        | 20.2%                                  | 25.1%              | 4.9%       |
| Prison                              | 20.4%                                  | 15.4%              | -5.0%      |
| Total                               | 100.0%                                 | 100.0%             | 0.0%       |

(LS50)

## 6. Compliance and the Recommended Mitigating, Presumptive and Aggravating Range

The recommended sentence is more than the Presumptive sentence. In the SAR, the courts are also given a mitigating and an aggravating sentence. The following analysis compares the actual sentence to the range from Mitigating to Aggravating. The decision whether an actual sentence is within the range or outside the range is based upon the disposition when the recommended sentence was probation, CSS or Shock/Treatment. If the recommended sentence was a prison sentence then the compliance decision is based upon whether the actual prison sentence was within or outside the recommended sentence range.

The overall picture since implementation in 2005 is that 83.8% of sentences are within the Mitigating to Aggravating range. There were 4.8% below the mitigating sentence and 11.3% above the aggravating sentence. When the actual sentence was prison the compliance percent is much lower (43.9%).

### **ACTUAL SENTENCE COMPARED TO THE RECOMMENDED SENTENCE RANGE**

| <b>Actual Sentence</b> | <b>Below Mitigating</b> |             | <b>Within the range of Mitigating to Aggravating</b> |              | <b>Above Aggravating</b> |              | <b>Total</b> |               |
|------------------------|-------------------------|-------------|--|--------------|--------------------------|--------------|--------------|---------------|
|                        | #                       | %           | #  | %            | #                        | %            | #            | %             |
| Prison                 | 91                      | 3.3%        | 1223   | 43.9%        | 1475                     | 52.9%        | 2789         | 100.0%        |
| 120day Shock           | 189                     | 9.8%        | 1546   | 80.3%        | 191                      | 9.9%         | 1926         | 100.0%        |
| Probation/CSS          | 432                     | 4.3%        | 9553   | 95.7%        | 0                        | 0.0%         | 9985         | 100.0%        |
| <b>Total</b>           | <b>712</b>              | <b>4.8%</b> | <b>12322</b>   | <b>83.8%</b> | <b>1666</b>              | <b>11.3%</b> | <b>14700</b> | <b>100.0%</b> |

(LS51)

The Recommended Sentencing matrix was last updated in October 15, 2007 for the 2007-2008 User Guide. SARS requested and sentenced since the implementation of the 2007-2008 User Guide, 87.6% of sentences are within the Mitigating to Aggravating range. When the actual sentence was prison, the compliance percent is still much lower but higher at 48.8%.

### **ACTUAL SENTENCE COMPARED TO THE RECOMMENDED SENTENCE RANGE**

(Only for User Guide 2007-2008 - October 15, 2007 to present)

| <b>Actual Sentence</b> | <b>Below Mitigating</b> |             | <b>Within the range of Mitigating to Aggravating</b> |              | <b>Above Aggravating</b> |             | <b>Total</b> |               |
|------------------------|-------------------------|-------------|--|--------------|--------------------------|-------------|--------------|---------------|
|                        | #                       | %           | #  | %            | #                        | %           | #            | %             |
| Prison                 | 16                      | 2.5%        | 310  | 48.8%        | 309                      | 48.7%       | 635          | 100.0%        |
| 120day Shock           | 40                      | 12.3%       | 255  | 78.5%        | 30                       | 9.2%        | 325          | 100.0%        |
| Probation/CSS          | 198                     | 5.2%        | 3634   | 94.8%        | 0                        | 0.0%        | 3832         | 100.0%        |
| <b>Total</b>           | <b>254</b>              | <b>5.3%</b> | <b>4199</b>  | <b>87.6%</b> | <b>339</b>               | <b>7.1%</b> | <b>4792</b>  | <b>100.0%</b> |

(LS51B)



## 7. Compliance By Sentencing County

Although the metro areas have a lower compliance than the first class counties and the rural counties, all the metro areas compliance are continuing to increase. Jackson County and St. Louis City, with an increase in SAR request, are sentencing above range is below 10%.

### ACTUAL SENTENCE COMPARED TO THE RECOMMENDED SENTENCE RANGE BY REGIONS

| Circuits         | Below Mitigating |       | Within the range of Mitigating to Aggravating |       | Above Aggravating |       | Total |        |
|------------------|------------------|-------|---|-------|-------------------|-------|-------|--------|
|                  | #                | %     | #   | %     | #                 | %     | #     | %      |
| Jackson County   | 66               | 10.8% | 489   | 80.2% | 55                | 9.0%  | 610   | 100.0% |
| St. Louis County | 27               | 5.1%  | 420   | 79.2% | 83                | 15.7% | 530   | 100.0% |
| St. Louis City   | 69               | 11.3% | 486   | 79.4% | 57                | 9.3%  | 612   | 100.0% |
| Metro            | 162              | 9.2%  | 1395  | 79.6% | 195               | 11.1% | 1752  | 100.0% |
| First Class      | 362              | 4.2%  | 7300  | 85.0% | 930               | 10.8% | 8592  | 100.0% |
| Rural            | 187              | 4.3%  | 3602  | 83.2% | 539               | 12.5% | 4328  | 100.0% |
| Total            | 711              | 4.8%  | 12297   | 83.8% | 1664              | 11.3% | 14672 | 100.0% |

Circuits by Region:

Metro: 16, 21, 22

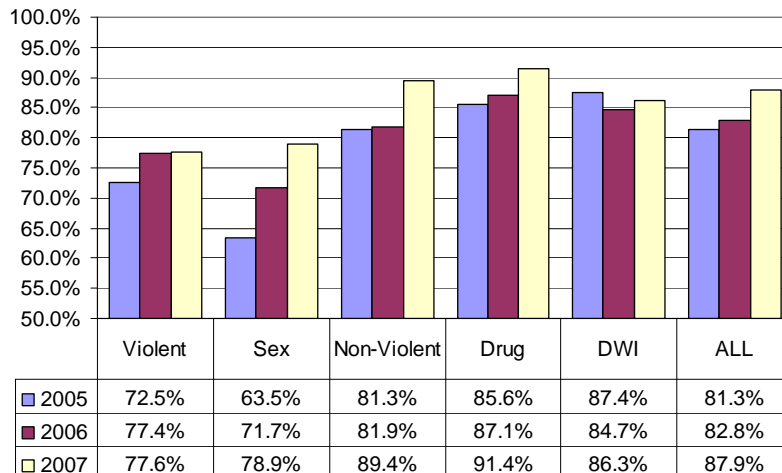
First Class: 5, 6, 7, 11, 13, 17, 19, 20, 23, 26, 29, 31, 32

Rural: 1, 2, 3, 4, 8, 9, 10, 12, 14, 15, 18, 24, 25, 27, 28, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45 (LS59)

## 8. Compliance Rates Since 2005

In the first year of the recommended sentences in 2005, 81.3% of the sentences for which the courts requested a SAR were within the recommended sentence range. In November 2006, the Commission issued a new User Guide that amended some recommended sentences and in 2007 compliance rate increased to 82.8%. In 2008, without any changes in the recommended sentencing the compliance rate based upon the sentencing for which SARs have been requested has increased to 87.9%.

### Compliance by Offense Group 2005 vs. 2006 vs. 2007/2008 Recommended Sentencing Matrix



(LS66B)

Across all offense groups, the percent within the Recommended Sentences range has increased. A particular note in the chart below is the compliance within the Recommended Sentence range for the sex offense group, which has increased from 63.5% to 78.9%.

**Compliance by Offense Group for 2005 vs. 2006 vs. 2007/2008 Recommended Sentencing Matrices**

| Offense Group      |              | Below      |             | Within       |              | Above       |              |
|--------------------|--------------|------------|-------------|--------------|--------------|-------------|--------------|
|                    |              | #          | %           | #            | %            | #           | %            |
| <b>Violent</b>     | 2005         | 49         | 7.1%        | 504          | 72.5%        | 142         | 20.4%        |
|                    | 2006         | 34         | 5.3%        | 496          | 77.4%        | 111         | 17.3%        |
|                    | 2007         | 34         | 6.0%        | 436          | 77.6%        | 92          | 16.4%        |
|                    | <b>Total</b> | <b>117</b> | <b>6.2%</b> | <b>1436</b>  | <b>75.7%</b> | <b>345</b>  | <b>18.2%</b> |
| <b>Sex</b>         | 2005         | 7          | 2.2%        | 198          | 63.5%        | 107         | 34.3%        |
|                    | 2006         | 7          | 2.6%        | 190          | 71.7%        | 68          | 25.7%        |
|                    | 2007         | 12         | 4.5%        | 210          | 78.9%        | 44          | 16.5%        |
|                    | <b>Total</b> | <b>26</b>  | <b>3.1%</b> | <b>598</b>   | <b>70.9%</b> | <b>219</b>  | <b>26.0%</b> |
| <b>Non-Violent</b> | 2005         | 98         | 5.1%        | 1561         | 81.3%        | 260         | 13.5%        |
|                    | 2006         | 61         | 4.1%        | 1228         | 81.9%        | 211         | 14.1%        |
|                    | 2007         | 81         | 4.8%        | 1509         | 89.5%        | 96          | 5.7%         |
|                    | <b>Total</b> | <b>240</b> | <b>4.7%</b> | <b>4298</b>  | <b>84.2%</b> | <b>567</b>  | <b>11.1%</b> |
| <b>Drug</b>        | 2005         | 87         | 4.5%        | 1674         | 85.6%        | 194         | 9.9%         |
|                    | 2006         | 71         | 4.4%        | 1395         | 87.1%        | 135         | 8.4%         |
|                    | 2007         | 84         | 4.7%        | 1630         | 91.4%        | 70          | 3.9%         |
|                    | <b>Total</b> | <b>242</b> | <b>4.5%</b> | <b>4699</b>  | <b>88.0%</b> | <b>399</b>  | <b>7.5%</b>  |
| <b>DWI</b>         | 2005         | 23         | 4.7%        | 431          | 87.4%        | 39          | 7.9%         |
|                    | 2006         | 20         | 3.8%        | 443          | 84.7%        | 60          | 11.5%        |
|                    | 2007         | 30         | 6.3%        | 414          | 86.3%        | 36          | 7.5%         |
|                    | <b>Total</b> | <b>73</b>  | <b>4.9%</b> | <b>1288</b>  | <b>86.1%</b> | <b>135</b>  | <b>9.0%</b>  |
| <b>ALL</b>         | 2005         | 264        | 4.9%        | 4368         | 81.3%        | 742         | 13.8%        |
|                    | 2006         | 193        | 4.3%        | 3752         | 82.8%        | 585         | 12.9%        |
|                    | 2007         | 241        | 5.0%        | 4199         | 87.9%        | 338         | 7.1%         |
|                    | <b>Total</b> | <b>698</b> | <b>4.8%</b> | <b>12319</b> | <b>83.9%</b> | <b>1665</b> | <b>11.3%</b> |

(LS66B)

## 9. Compliance and the Prior Criminal History Level

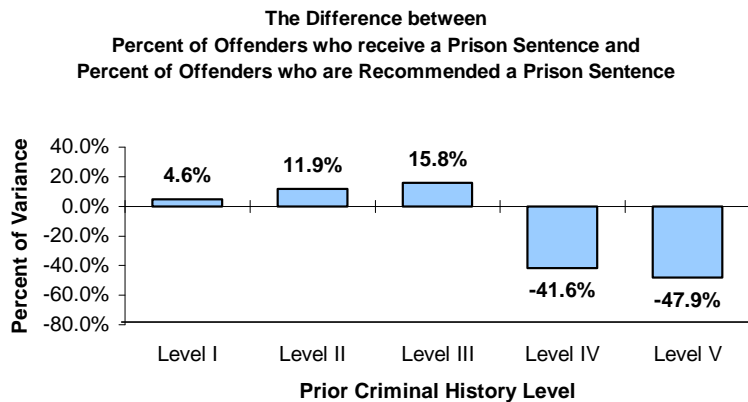
The recommended sentences increase the severity of the sentence with an increase of the prior criminal history. The SAR data indicates that actual sentencing does reflect an increase in the prior criminal history, particularly the percent prison disposition.

### ACTUAL SENTENCES BY OFFENSE GROUP AND PRIOR CRIMINAL HISTORY Completed SARs and Offenders received by the DOC, May 2005 to March 2009

| Offense Group                | Prior Criminal History            |                             |                          |                          |  |
|------------------------------|-----------------------------------|-----------------------------|--------------------------|--------------------------|--|
|                              | Level 1                           | Level 2                     | Level 3                  | Level 4                  | Level 5                                |
|                              | No felonies & no more than 3 misd | No prison & 1 or 2 felonies | One prison or 3 felonies | Two prison or 4 felonies | 3 or more prison or 5 or more felonies |
| <i>Violent</i>               |                                   |                             |                          |                          |  |
| Percent of PCHL              | 61.0%                             | 16.1%                       | 14.1%                    | 4.3%                     | 4.5%                                   |
| Percent Prison Disposition   | 31.0%                             | 44.1%                       | 66.0%                    | 72.8%                    | 77.6%                                  |
| Average Sentence             | 10.9                              | 12.0                        | 12.2                     | 15.1                     | 16.3                                   |
| <i>Sex &amp; Child Abuse</i> |                                   |                             |                          |                          |  |
| Percent of PCHL              | 67.5%                             | 15.2%                       | 11.0%                    | 4.3%                     | 2.0%                                   |
| Percent Prison Disposition   | 45.7%                             | 59.4%                       | 72.8%                    | 86.1%                    | 82.4%                                  |
| Average Sentence             | 11.1                              | 12.0                        | 13.9                     | 9.0                      | 22.0                                   |
| <i>NonViolent</i>            |                                   |                             |                          |                          |  |
| Percent of PCHL              | 56.3%                             | 18.3%                       | 12.7%                    | 6.1%                     | 6.6%                                   |
| Percent Prison Disposition   | 4.8%                              | 13.0%                       | 26.7%                    | 40.5%                    | 49.4%                                  |
| Average Sentence             | 4.2                               | 4.0                         | 4.3                      | 4.4                      | 5.2                                    |
| <i>Drug</i>                  |                                   |                             |                          |                          |  |
| Percent of PCHL              | 56.3%                             | 20.0%                       | 14.3%                    | 4.8%                     | 4.6%                                   |
| Percent Prison Disposition   | 2.8%                              | 10.8%                       | 24.1%                    | 36.4%                    | 45.3%                                  |
| Average Sentence             | 7.0                               | 6.4                         | 6.1                      | 6.9                      | 7.3                                    |
| <i>DWI</i>                   |                                   |                             |                          |                          |  |
| Percent of PCHL              | 43.8%                             | 26.8%                       | 17.8%                    | 5.8%                     | 5.8%                                   |
| Percent Prison Disposition   | 4.1%                              | 11.2%                       | 30.1%                    | 40.2%                    | 50.6%                                  |
| Average Sentence             | 3.4                               | 4.6                         | 4.7                      | 5.6                      | 4.9                                    |
| <i>All Offense Groups</i>    |                                   |                             |                          |                          |  |
| Percent of PCHL              | 56.3%                             | 19.3%                       | 13.9%                    | 5.3%                     | 5.2%                                   |
| Percent Prison Disposition   | 10.5%                             | 17.4%                       | 33.5%                    | 44.6%                    | 52.1%                                  |
| Average Sentence             | 9.3                               | 8.0                         | 7.8                      | 7.5                      | 8.2                                    |

(LS53)

Compliance, however, varies significantly by the prior criminal history level. Offenders with many prior convictions and incarcerations are likely to receive a more lenient sentence than the recommended presumptive sentence. Offenders with a level 3 history are most likely to be sentenced more severely than the presumptive recommended sentence.



**Difference Between Presumptive Recommended Sentence and Actual Sentence  
By Criminal History Level**

| Sentence<br>Type<br>by Level | Recommended<br>Presumptive<br>Sentence |        | Actual<br>Sentence |        | Difference<br>in<br>% |
|------------------------------|--|--------|--------------------|--------|-----------------------|
|                              | # SARs                                 | %      | # SARs             | %      |                       |
| <u>Level I</u>               |  |        |                    |        |                       |
| Probation or CSS             | 7667                                   | 92.8%  | 6778               | 82.1%  | -10.8%                |
| 120day Shock                 | 106                                    | 1.3%   | 615                | 7.4%   | 6.2%                  |
| Prison                       | 485                                    | 5.9%   | 865                | 10.5%  | 4.6%                  |
| Total                        | 8258                                   | 100.0% | 8258               | 100.0% | 0.0%                  |
| <u>Level II</u>              |  |        |                    |        |                       |
| Probation or CSS             | 2515                                   | 88.7%  | 1834               | 64.7%  | -24.0%                |
| 120day Shock                 | 165                                    | 5.8%   | 508                | 17.9%  | 12.1%                 |
| Prison                       | 154                                    | 5.4%   | 492                | 17.4%  | 11.9%                 |
| Total                        | 2834                                   | 100.0% | 2834               | 100.0% | 0.0%                  |
| <u>Level III</u>             |  |        |                    |        |                       |
| Probation or CSS             | 234                                    | 11.5%  | 928                | 45.6%  | 34.1%                 |
| 120day Shock                 | 1443                                   | 70.9%  | 427                | 21.0%  | -49.9%                |
| Prison                       | 359                                    | 17.6%  | 681                | 33.4%  | 15.8%                 |
| Total                        | 2036                                   | 100.0% | 2036               | 100.0% | 0.0%                  |
| <u>Level IV</u>              |  |        |                    |        |                       |
| Probation or CSS             | 0                                      | 0.0%   | 236                | 30.5%  | 30.5%                 |
| 120day Shock                 | 107                                    | 13.8%  | 193                | 24.9%  | 11.1%                 |
| Prison                       | 667                                    | 86.2%  | 345                | 44.6%  | -41.6%                |
| Total                        | 774                                    | 100.0% | 774                | 100.0% | 0.0%                  |
| <u>Level V</u>               |  |        |                    |        |                       |
| Probation or CSS             | 0                                      | 0.0%   | 190                | 24.7%  | 24.7%                 |
| 120day Shock                 | 0                                      | 0.0%   | 178                | 23.2%  | 23.2%                 |
| Prison                       | 768                                    | 100.0% | 400                | 52.1%  | -47.9%                |
| Total                        | 768                                    | 100.0% | 768                | 100.0% | 0.0%                  |

(LS69)

## 10. Plea Agreements

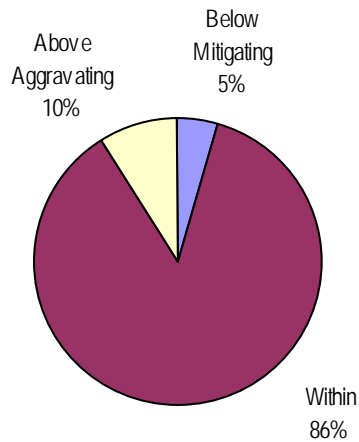
Plea agreements are made in 47% of sentencing for which SARs have been requested. The compliance rate is higher for the cases when there is a plea agreement.

### **Actual Sentence compared to the Recommended Sentence SARs completed May 2005 to March, 2008**

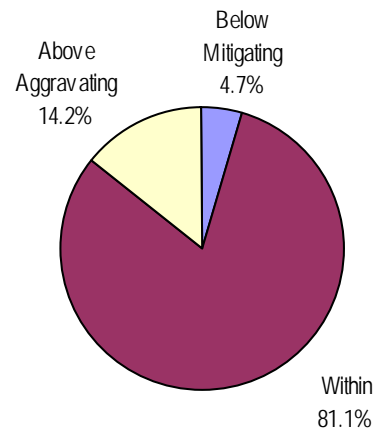
| <b>Plea Agreement</b> | <b>Below Mitigating</b> | <b>Within</b>  | <b>Above Aggravating</b> | <b>Total</b> | <b>Percent</b> |
|-----------------------|-------------------------|----------------|--------------------------|--------------|----------------|
| Yes                   | 311<br>4.8%             | 5563<br>86.3%  | 575<br>8.9%              | 6449         | 47%            |
| No or Not Known       | 345<br>4.7%             | 5934<br>81.1%  | 1039<br>14.2%            | 7318         | 53%            |
| All                   | 656<br>4.8%             | 11497<br>83.5% | 1614<br>11.7%            | 13767        | 100%           |

(LS63)

**Plea Agreement: Yes**



**Plea Agreement: No or Not Known**



# MISSOURI SENTENCING ADVISORY COMMISSION

## Progress Report on the Recommended Sentencing – Addendum Presented to the Commission Meeting April 23, 2009 Produced by the Department of Corrections Research and Evaluation Unit

### 11. Court Adherence with the Recommended Sentence Range by Circuit

Looking only at SARS from the current Recommended Sentencing matrix, which was implemented October 15, 2007, 87.6% of SARS were sentenced within the Mitigating to Aggravating range. When the actual sentence was prison, the adherence is much lower at 48.8%.

#### ACTUAL SENTENCE COMPARED TO THE RECOMMENDED SENTENCE RANGE

(Current Sentencing Matrix - effective since October 15, 2007)

| Actual Sentence  | Below Mitigating |       | Within the range of Mitigating to Aggravating |       | Above Aggravating |       | Total |        |
|------------------|------------------|-------|---|-------|-------------------|-------|-------|--------|
|                  | #                | %     | #   | %     | #                 | %     | #     | %      |
| <b>Statewide</b> |                  |       |   |       |                   |       |       |        |
| Prison           | 16               | 2.5%  | 310   | 48.8% | 309               | 48.7% | 635   | 100.0% |
| 120day Shock     | 40               | 12.3% | 255   | 78.5% | 30                | 9.2%  | 325   | 100.0% |
| Probation/CSS    | 198              | 5.2%  | 3634  | 94.8% | 0                 | 0.0%  | 3832  | 100.0% |
| Total            | 254              | 5.3%  | 4199  | 87.6% | 339               | 7.1%  | 4792  | 100.0% |

(LS51C)

When the actual sentence is prison, Metro as a group, which consists of 9.4% of all SARS, has 31.5% of their SARS sentenced are above the aggravating sentence.

#### ACTUAL SENTENCE COMPARED TO THE RECOMMENDED SENTENCE RANGE

(Current Sentencing Matrix - effective since October 15, 2007)

| Actual Sentence         | Below Mitigating |       | Within the range of Mitigating to Aggravating |        | Above Aggravating |       | Total |        |
|-------------------------|------------------|-------|---|--------|-------------------|-------|-------|--------|
|                         | #                | %     | #   | %      | #                 | %     | #     | %      |
| <b>Jackson County</b>   |                  |       |   |        |                   |       |       |        |
| Prison                  | 2                | 6.7%  | 21  | 70.0%  | 7                 | 23.3% | 30    | 100.0% |
| 120day Shock            | 2                | 20.0% | 8   | 80.0%  | 0                 | 0.0%  | 10    | 100.0% |
| Probation/CSS           | 23               | 16.8% | 114   | 83.2%  | 0                 | 0.0%  | 137   | 100.0% |
| Total                   | 27               | 15.3% | 143   | 80.8%  | 7                 | 4.0%  | 177   | 100.0% |
| <b>St. Louis County</b> |                  |       |   |        |                   |       |       |        |
| Prison                  | 3                | 15.0% | 8   | 40.0%  | 9                 | 45.0% | 20    | 100.0% |
| 120day Shock            | 0                | 0.0%  | 3   | 100.0% | 0                 | 0.0%  | 3     | 100.0% |
| Probation/CSS           | 3                | 3.0%  | 98  | 97.0%  | 0                 | 0.0%  | 101   | 100.0% |
| Total                   | 6                | 4.8%  | 109   | 87.9%  | 9                 | 7.3%  | 124   | 100.0% |
| <b>St. Louis City</b>   |                  |       |   |        |                   |       |       |        |
| Prison                  | 1                | 4.3%  | 15  | 65.2%  | 7                 | 30.4% | 23    | 100.0% |
| 120day Shock            | 3                | 25.0% | 9   | 75.0%  | 0                 | 0.0%  | 12    | 100.0% |
| Probation/CSS           | 20               | 17.2% | 96  | 82.8%  | 0                 | 0.0%  | 116   | 100.0% |
| Total                   | 24               | 15.9% | 120   | 79.5%  | 7                 | 4.6%  | 151   | 100.0% |
| <b>Metro</b>            |                  |       |   |        |                   |       |       |        |
| Prison                  | 6                | 8.2%  | 44  | 60.3%  | 23                | 31.5% | 73    | 100.0% |
| 120day Shock            | 5                | 20.0% | 20  | 80.0%  | 0                 | 0.0%  | 25    | 100.0% |
| Probation/CSS           | 46               | 13.0% | 308   | 87.0%  | 0                 | 0.0%  | 354   | 100.0% |
| Total                   | 57               | 12.6% | 372   | 82.3%  | 23                | 5.1%  | 452   | 100.0% |

Of those sentenced above aggravating for prison, all the SARs for Jackson County and St. Louis City SARs and 67% of the St. Louis County SARs, the aggravating sentence was recommending a Prison Sentence.

The First Class districts are sentencing 48.4% of their SARs sentenced to prison are above the SAR aggravating sentence. Rural districts are 56.0% of their SARs.

#### ACTUAL SENTENCE COMPARED TO THE RECOMMENDED SENTENCE RANGE

(Current Sentencing Matrix - effective since October 15, 2007)

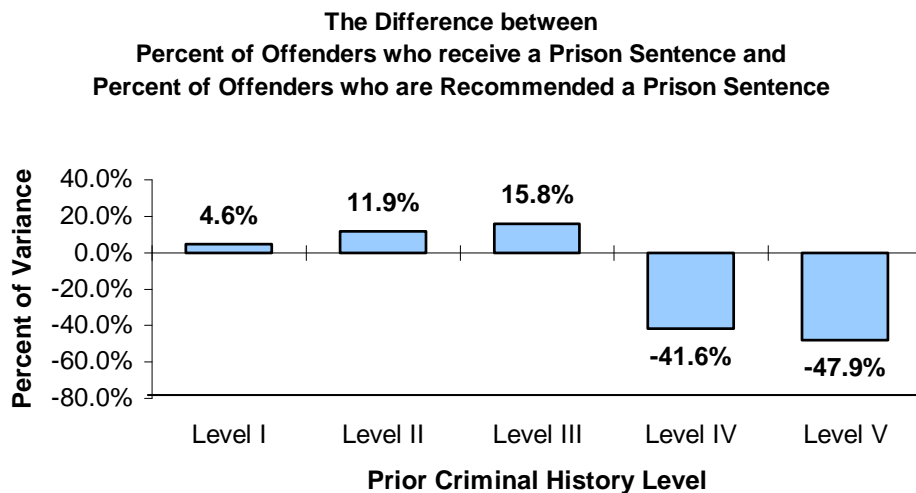
| Actual Sentence    | Below Mitigating |       | Within the range of Mitigating to Aggravating |       | Above Aggravating |       | Total |        |
|--------------------|------------------|-------|---|-------|-------------------|-------|-------|--------|
|                    | #                | %     | #   | %     | #                 | %     | #     | %      |
| <b>First Class</b> |                  |       |   |       |                   |       |       |        |
| Prison             | 6                | 1.6%  | 189   | 50.0% | 183               | 48.4% | 378   | 100.0% |
| 120day Shock       | 25               | 12.4% | 158   | 78.2% | 19                | 9.4%  | 202   | 100.0% |
| Probation/CSS      | 103              | 4.2%  | 2361  | 95.8% | 0                 | 0.0%  | 2464  | 100.0% |
| Total              | 134              | 4.4%  | 2708  | 89.0% | 202               | 6.6%  | 3044  | 100.0% |
| <b>Rural</b>       |                  |       |   |       |                   |       |       |        |
| Prison             | 4                | 2.2%  | 77  | 41.8% | 103               | 56.0% | 184   | 100.0% |
| 120day Shock       | 10               | 10.2% | 77  | 78.6% | 11                | 11.2% | 98    | 100.0% |
| Probation/CSS      | 49               | 4.8%  | 965   | 95.2% | 0                 | 0.0%  | 1014  | 100.0% |
| Total              | 63               | 4.9%  | 1119  | 86.3% | 114               | 8.8%  | 1296  | 100.0% |

Of those sentenced to prison above aggravating, 70% for First Class and 69% for Rural the SARs aggravating sentence was recommending a prison sentence.

#### 12. Court Adherence and the Prior Criminal History Level

The recommended sentences increase the severity of the sentence with an increase of the prior criminal history.

Court Adherence, however, varies significantly by the prior criminal history level. Offenders with many prior convictions and incarcerations are likely to receive a more lenient sentence than the recommended presumptive sentence. Offenders with a level 3 history are most likely to be sentenced more severely than the presumptive recommended sentence.



Looking at Level V Criminal History by offense group, the majority of the differences are in Non-Violent and Drug offense groups.

For a 120-day Shock sentence, 76.1% of the actual sentences for SARs were for the Non-Violent and Drug offense groups. It was 82.6% for the same offense groups when the sentence was probation/CSS.

**Difference Between Presumptive Recommended Sentence and Actual Sentence  
For Criminal History Level V  
By Sentence Type Prison and Offense Group**

| Level V<br>by Sentence Type<br>by Offense Group | Recommended<br>Presumptive<br>Sentence |        | Actual<br>Sentence |        | Difference<br>in<br>% |
|---|--|--------|--------------------|--------|-----------------------|
|   | # SARs                                 | %      | # SARs             | %      |                       |
| <u>Probation or CSS</u>                         |  |        |                    |        |                       |
| Violent   | 0                                      | 0.0%   | 11                 | 5.8%   | 5.8%                  |
| Sex & Child Abuse                               | 0                                      | 0.0%   | 3                  | 1.6%   | 1.6%                  |
| Non-Violent                                     | 0                                      | 0.0%   | 93                 | 48.9%  | 48.9%                 |
| Drug  | 0                                      | 0.0%   | 64                 | 33.7%  | 33.7%                 |
| DWI   | 0                                      | 0.0%   | 19                 | 10.0%  | 10.0%                 |
| Total   | 0                                      | 0.0%   | 190                | 100.0% | 100.0%                |
| <u>120day Shock</u>                             |  |        |                    |        |                       |
| Violent   | 0                                      | 0.0%   | 8                  | 4.2%   | 4.2%                  |
| Sex & Child Abuse                               | 0                                      | 0.0%   | 14                 | 7.3%   | 7.3%                  |
| Non-Violent                                     | 0                                      | 0.0%   | 76                 | 39.6%  | 39.6%                 |
| Drug  | 0                                      | 0.0%   | 70                 | 36.5%  | 36.5%                 |
| DWI   | 0                                      | 0.0%   | 24                 | 12.5%  | 12.5%                 |
| Total   | 0                                      | 0.0%   | 192                | 100.0% | 100.0%                |
| <u>Prison</u>                                   |  |        |                    |        |                       |
| Violent   | 85                                     | 10.9%  | 66                 | 16.5%  | 5.6%                  |
| Sex & Child Abuse                               | 31                                     | 4.0%   | 14                 | 3.5%   | -0.5%                 |
| Non-Violent                                     | 334                                    | 42.7%  | 165                | 41.3%  | -1.5%                 |
| Drug  | 245                                    | 31.3%  | 111                | 27.8%  | -3.6%                 |
| DWI   | 87                                     | 11.1%  | 44                 | 11.0%  | -0.1%                 |
| Total   | 782                                    | 100.0% | 400                | 100.0% | 0.0%                  |